

MINUTES
of the
LEGISLATIVE CONSUMER COMMITTEE
May 31, 2007
State Capitol, Room 137, Helena, MT

COMMITTEE MEMBERS PRESENT

Representative George Groesbeck, Chairman
Representative Walter McNutt, Vice Chairman, via conference call
Senator Joe Tropila
Senator Terry Murphy

STAFF PRESENT

Robert A. Nelson, Consumer Counsel
Larry Nordell, Economist
Mary Wright, Attorney
Mandi Shulund, Secretary

VISITORS PRESENT

Cheryl Gillespie, Qwest
John Fitzpatrick, NorthWestern Energy
Bonnie Lorang, Montana Independent Telecommunication Systems

CALL TO ORDER

The meeting was called to order by Representative Groesbeck.

MINUTES OF THE PREVIOUS MEETING

MOTION: Representative McNutt moved approval of the September 13, 2006 and November 21, 2006 meeting minutes.

VOTE: The motion passed unanimously.

Selection of Chair and Vice Chair

MOTION: Representative McNutt moved to nominate Representative Groesbeck as Chair and Senator Tropila as Vice-Chair.

Senator Tropila made a substitute motion to nominate Representative Groesbeck as Chair and Representative McNutt as Vice-Chair.

VOTE: The substitute motion passed unanimously.

BOB NELSON PROVIDED THE FOLLOWING HIGHLIGHTS OF CASES

CURRENTLY PENDING:

NorthWestern Energy

EL06-105-000-Petition for Declaratory Order: This case is before the Federal Energy Regulatory Commission (FERC) relating to the transmission activities of NorthWestern Energy (NWE). NWE filed a request for approval of a pricing scheme that is slightly different from what FERC normally approves. MCC intervened and filed comments 11/06. A main focus of MCC's comments was to make sure that anything FERC does is not going to have any kind of preemptive effect on the state regulatory jurisdiction or affect costs in Montana. MCC also pointed out to FERC concerns about the rate of return NWE requested and whether there was sufficient

detail provided to allow FERC to issue a final and complete approval. MCC felt there should be some flexibility for future comment.

ER07-46-000-Request for Approval of Transmission Rate Change: Another case before FERC, this is a rate increase request pertaining to transmission rates regulated by FERC. Again these cases do not appear to affect state retail jurisdiction but there are some large industrial customers that do pay these rates. In this case, MCC is particularly interested in the magnitude of the revenue increase that NWE indicated they could justify, even though they are not asking for the entire increase. MCC has intervened and the case is now in a formal settlement process.

For rate regulation purposes, the PSC separates commodity costs from non commodity costs. Therefore, a general rate case typically does not include commodity costs, or gas costs that NWE or Montana-Dakota Utilities Company (MDU) purchase and flow through. These costs are treated separately in a commodity cost tracker case. The PSC has gone to monthly trackers for following the costs of all major utilities so the gas and electric costs for NWE that are flowed through will differ from month to month. Administratively these can not be looked at in detail, so they are handled by once a year auditing these changes and the proposed plan for the upcoming year.

D2006.8.119-Monthly Electric Tracker: The January Electric Tracker filed 12/14/06 resulted in a residential rate increase from \$.0488/kwh to \$.04938/kwh (1.2%); The February Electric Tracker filed 1/15/07 resulted in a residential rate increase from \$.04938/kwh to \$.0505/kwh (2.4%); The March Electric Tracker filed 2/15/07 resulted in a residential rate increase from \$.0505/kwh to \$.0533/kwh (5.5%); The April Electric Tracker filed 3/14/07 resulted in a residential rate decrease from \$.0533/kwh to \$.0525/kwh (1.4%); The May Electric Tracker filed 4/16/07 resulted from a residential rate increase from \$.0525/kwh to \$.0551/kwh (4.85%) and the June Electric Tracker filed 5/15/07 resulted in a residential rate increase from \$.0551/kwh to \$.0566/kwh (2.7%).

D2006.7.102-Monthly Gas Tracker: The January Gas Tracker filed 12/15/06 resulted in a residential rate decrease from \$9.59 to \$9.53; The February Gas Tracker filed 1/15/07 resulted in a residential rate decrease from \$9.53 to \$9.16; The March Gas Tracker filed 2/15/07 resulted in a residential rate increase from \$9.16 to \$9.83; The April Gas Tracker filed 3/14/07 resulted in a residential rate increase from \$9.83 to \$9.02; The May Gas Tracker filed 4/16/07 resulted in a residential rate increase from \$9.02 to \$10.03 and the June Gas Tracker filed 5/15/07 resulted in a residential rate decrease from \$10.03 to \$9.24.

EC06-127-Joint Application of NorthWestern Corporation and BBIL for Approval of Sale and Transfer: This filing had to be made before FERC because FERC regulates NWE in some interstate activities. MCC intervened and filed comments. NWE was seeking expedited approval and in order to approve this kind of application on an expedited basis it is required that the applicant demonstrate that the PSC has authority to protect consumers. MCC used this case to try and get NWE to acknowledge that the PSC did have jurisdiction and could protect consumers.

D2006.6.82-Joint Application of NorthWestern Corporation and BBIL for Approval of Sale and Transfer: This case involves a merger that is also a sale to Babcock and Brown Infrastructure Limited (BBI). BBI agreed to pay about \$2.2 billion, assuming \$736 million in debt, paying \$987 million from existing cash and new equity and issuing \$505 million worth of new debt at the Holding Company level. MCC engaged in a thorough review of the application and filed discovery. Initially MCC did not have any predisposition about the outcome but was interested in how the premium would be recovered and how that would impact rates. MCC did not receive a satisfactory answer to this question. In fact, the answer provided heightened concerns. Dr. John Wilson filed testimony 12/06 on behalf of MCC, concluding that the transaction as proposed would increase the risk to the reliability of service and also increase risk in rates to customers. A hearing was held 3/07 and the briefing period has been completed. The PSC recently directed their staff to draft an order denying the application. Representative McNutt asked Bob what will happen to the case once

that order is issued. Bob said there are many possibilities, ranging from the applicants accepting the order to filing a Motion for Reconsideration. If the PSC would not reconsider and revise any conclusions in the order, there is opportunity for the applicant to appeal to District Court.

D2006.10.141-NorthWestern Informational Cost of Service Filing: This case relates to the prior bankruptcy process and settlement. One concern here was the possibility that NWE was eliminating or reducing some of its costs which brought up the prospect that rates would no longer be aligned with actual costs. Another concern was that if there was not a rate review pending, NWE may have incentive to perhaps reduce more costs than they should in order to increase their net profit in the context of bankruptcy. MCC entered into a settlement with regard to the bankruptcy proceeding, which involved many items, one being that NWE would file an Informational Cost of Service filing. There has always been a dispute whether the PSC can require a rate case filing which brings up the issue of who has the burden of proof in filings that are made. These discussions occurred during the bankruptcy settlement and MCC agreed that NWE would not file a rate case but would file all information necessary to put together a rate case in the format the PSC requires. The information was filed 10/06 and by NWE filing this information, MCC would be able to, if necessary, to prosecute a rate case. NWE claimed they were under-earning by \$29 million on electric and \$12 million on gas, based on a 12% return on equity for electric and 11.75% for gas, which is quite high in the current environment. MCC is still reviewing the information and BBI needs to be aware of MCC's view on what the revenue stream should be from NWE so there are no surprises if the sale would ever become final. Subsequently, NWE announced it is planning to file a general rate case soon, so work in this docket has been suspended. Also associated with this filing is an allocated cost of service study filed by NWE in 4/06 which, as opposed to revenue requirement, is a study of how the revenue requirement should be split among the various customers and customer classes. Work on this has also been suspended due to the anticipated general rate case filing.

D2007.4.35-Request for Approval of Affiliate Power Purchase Transaction: NWE initially had asked for preapproval of a purchase of 90 megawatts from the Colstrip 4 facility at very good rates. NWE subsequently withdrew that filing. MCC later discovered errors in an annual tracker and recommended an adjustment. As part of the settlement in that case, NWE agreed to make the 90 megawatt purchase of the Colstrip 4 power at a rate of about \$35.00 per megawatt which is a very good price for today's market. The PSC approved that settlement in an order requiring NWE to complete the procurement within 10 days of the order, but the procurement was never completed. This application is NWE's request for PSC approval of a power purchase agreement that would complete that procurement. MCC's concern is why NWE chose to take this route to complete the procurement and whether there is risk for rate payers because of it.

ER07-827-Request Approval of Power Purchase Agreement between NorthWestern Energy and Montana Generation, LLC: This is an associated case before FERC because the proposed Colstrip 4 purchase is an affiliate transaction and would need FERC approval. MCC is concerned because there are precedents where FERC has allowed the revision of contracts they have approved. MCC is trying to make sure if FERC does approve this purchase that it is noted that this is a state settlement and and that the PSC approval from the prior case should be honored.

D2003.8.86, D2004.6.96, D2005.6.103-Consolidated Annual QF Compliance Filings: NWE was, as were other utilities, required to purchase QF power. This requirement has been in place for nearly 30 years. In the 1980's, the purchases NWE made developed into a problem during restructuring because the QF contracts NWE entered into were significantly above market rates which created a large stranded cost for NWE. MCC entered into a settlement with respect to all existing QF costs, believing this issue was taken care of and would not impact ratepayers. However, there is potential rate payer impact from future QF purchases, which the Final Order in these dockets partially deals with. Because of the earlier problem with QF purchases, the PSC ultimately required that any QF purchases over three megawatts had to go through a competitive procurement process. In this Final

Order, the PSC increased the size to ten megawatts and also adopted a flat amount of \$7.50 per megawatt hour for wind integration costs. MCC filed a Motion for Reconsideration on these issues and a decision has not yet been made. MCC feels that these changes need to be made through the rulemaking process and not in a contested case.

D2007.6.59-2007-QF CTC True-up: This case relates to preexisting QF costs. Each year NWE tracks these charges and files them as competitive transition charges which show up on power bills as the settlement of those stranded costs. In order to recover those stranded costs, \$25 million is added to the utilities' power costs to recover the stranded costs which are spread back through the CTC charge. MCC reviews these on an annual basis. There is still a significant impact from those QF costs, which will persist for the next 20 years.

N2005.6.101-Application for Approval of Natural Gas Procurement Plan: MCC has, for many years, supported the idea of a Natural Gas Procurement Plan, for NWE in particular, that would be similar to the Integrated Resource Planning on their Electric side. The idea of a procurement plan was to try and minimize the risks NWE faced in purchasing natural gas. NWE ultimately filed an application for an approval process for these procurement plans. MCC was in favor of NWE engaging in a review of financial hedging to try and minimize the risks they faced for fluctuating cost. There are many ways to hedge costs, but utilities primarily use physical hedging by actually buying and storing gas or locking in long term contracts with fixed prices. George Donkin, analyst for MCC, supported this approach to reduce volatility but was concerned at the same time in the utility protecting themselves against the drop in market prices. In a Final Order issued in April, the PSC rejected MCC's position and did not require the utilities to even investigate financial hedging. The Final Order also slightly amended the hedging guidelines and specifically excluded financial and derivative hedges for risk mitigation.

D2006.12.184-Natural Gas Biennial Procurement Plan: This case is the first Natural Gas Biennial Procurement Plan filed by NWE. The plan generally called for about

70% of the last winter season to be hedged by either storage gas or fixed prices. George Donkin filed comments on MCC's behalf in January and filed supplemental comments in February. Mr. Donkin indicated that due to the lack of financial hedges, NWE's costs were significantly higher than if NWE had purchased at market prices and given that the PSC had rejected financial hedging, Mr. Donkin would prefer using spot market purchases, an approach that MDU uses. The PSC decided that NWE's plan conformed to the guidelines and concluded that MCC's view was not consistent with the goal of price stability. Bob felt this conclusion was incorrect due to the PSC stating that MCC was using hindsight to say prices would have been lower but actually MCC said the lower prices were simply evidence that using financial hedges would have protected consumers.

Bob handed out to the committee a graph tracking NWE, MDU and EWM monthly gas prices from Nov 05-June 07. NWE and MDU prices are based on heating value or dekatherms, while EWM is based on volume or MCF, so they are not absolutely comparable. The past 8 months MDU's prices were much more volatile and the PSC has said there is some value in stability. However, NWE's prices that are stable are significantly higher than MDU. The difference between the two is what Mr. Donkin said about some of the value that could have been recaptured had there been financial hedges in place prior to that heating season. Senator Tropila asked if these companies do any titration on the gas to see if the BTU content is what they are paying for. Bob said that the PSC requires companies to do this. MDU and NWE actually split their distribution system into zones so there are different charges to the customers reflecting the heating value of the gas. EWM does not do this but they do measure this as part of their purchasing program.

D2007.5.44-Annual Application for Gas Tracker True-up: This case is the current pending application for the True-Up of the monthly trackers for the period ended June 30, 2007 and the projected costs through June of 2008. NWE is estimating a 20% increase in gas prices.

D2006.12.176-2007 Electric and Gas Tax Tracker Adjustment: Typically in rate cases, the PSC reviews only a test year that has all expenses and revenues matched. There is a general regulatory ban on what is called single item filings, although there are exceptions under certain circumstances for looking at single items. Gas and electric trackers are a notable example of that. Four years ago the legislature adopted an additional single item tracker to consider tax impacts or changes for utilities. The MCC and the PSC have consistently opposed that and supported legislation during the recent session that would have repealed that law. However, there is a provision that allows the utilities to track their tax changes and requires any increases, for example in property taxes, be offset by the deductibility of those property taxes for income tax purposes. The utilities have opposed the PSC's implementation of that deductibility provision and have appealed to District Court where, in March, an order was issued affirming the PSC approach which MCC also supported.

Montana Dakota Utilities

D2006.4.54-Annual Tracker Review: This case is similar to the NWE Annual Tracker dockets. MDU files monthly trackers that MCC reviews and this case pertains to the 2006 period. In April the PSC issued a Final Order approving the application.

D2006.1.2-Investigation and Direction on Electric and Natural Gas Universal Systems Benefit Programs: The PSC is investigating MDU's Electric and Natural Gas USB Programs and recently issued an order approving a small increase in charges to bring MDU up to its statutory obligations for funding USB programs.

N2007.5.50: Biennial Filing of Electric Integrated Resource Plan: Every two years the utility has to file a plan to indicate what the electric resource needs are and a proposal on how to meet these needs. These plans do not involve pre approval of any particular resources, they are meant to give general guidance and input from regulators to utilities in order to minimize future risks and resource needs. MCC will be reviewing the plan and will file comments.

Energy West

D2006.6.83-EWM Monthly trackers: The January Gas Tracker filed 12/7/06 resulted in a residential rate decrease from \$9.45 Mcf to \$8.88 Mcf; The February Gas Tracker filed 1/4/07 resulted in a residential rate decrease from \$8.88 Mcf to \$8.50 Mcf; The March Gas Tracker filed 2/5/07 resulted in a residential rate increase from \$8.50 Mcf to \$8.99 Mcf; The April Gas Tracker filed 3/7/07 resulted in a residential rate increase from \$8.99 Mcf to \$9.01 Mcf; The May Gas Tracker filed 4/6/07 resulted in a residential rate increase from \$9.01 Mcf to \$9.24 Mcf and the June Gas Tracker filed 5/8/07 resulted in a residential rate decrease from \$9.24 Mcf to \$9.20 Mcf.

D2007.5.55-Petition for Authority to Issue Securities: When utilities issue securities it is required they get PSC approval. This became a sensitive area after the NWE bankruptcy.

Mountain Water Company

D2005.4.49-Application to Increase Water Rates: This case has been pending for quite some time and MCC entered into a settlement, which the PSC approved, with Mountain Water Company (MWC) on the revenue requirement issue. The City of Missoula raised the issue of fire protection costs. Historically the city has been billed for fire protection costs and they want to shift those costs to rate payers, which the PSC Final Order did allow. One other issue, stemming from that order, related to metering all unmetered customers. MCC and MWC both filed Motions to Reconsider these items. The metering issue was appealed to District Court which reversed the PSC order based on lack of notice. Regarding the reallocation of fire cost issue, MWC filed a cost of service study showing, in their view, which customers are contributing to their costs and proposed to reallocate \$426,000 in costs to unmetered irrigation customers and another slight increase in other unmetered rates. Larry Nordell filed testimony in April not objecting to the proposed allocation because he concluded the proposal reduced the likely differential between

unmetered customer costs and revenues. Larry did propose, however, that MWC study the costs and benefits of metering irrigation sprinkler accounts and public agency accounts. A hearing on this issue is set for June.

Cause No. ADV-2006-389-Mountain Water Company v. PSC, MCC and City of Missoula: This case is the appeal of the metering issue.

Northridge Water Company

D2007.3.26-Application for Initial Rates: When subdivisions are developed, a water system is installed which creates a regulated water and sewer utility, sometimes to their surprise. As these new utilities file for initial rates, it is hard to review these applications because there is no history of costs or revenues. In these cases, the PSC typically approves the applications on an interim basis for a year or two and requires a complete filing at that time.

Firelight Meadows

D2007.4.33-Application for Transfer of Water and Sewer Utility: This case pertains to the sale and transfer of Firelight Meadows, LLC to HLH, LLC for \$1.6 million. The PSC does review sales and transfers of water utilities.

MT Associates

D2007.5.49-Application for Sale and Transfer of Utility: This is another sale and transfer involving MT Associates, LLC and AquaFlo, LLC for \$200,000.

Miller Oil Company

D2007.3.29-Annual Propane Cost True-Up: Miller Oil is a small propane company in Culbertson that filed a request for increasing commodity costs. Frank is reviewing that application.

Williston Basin

Williston Basin v. FERC, U.S. Court of Appeals, D.C. Circuit, No. 06-1145: This is a Williston Basin (WB) appeal of a FERC order that MCC is participating in before the Washington DC District Court. WB is basically the transmission arm for MDU so costs that WB is allowed to charge have a significant impact on MDU customers. In this particular case the issue of revenue credits that would otherwise be flowed back through to the benefit of retail rate payers is of interest to MCC.

Energy Policy Act

N2006.5.60-Consideration of Adoption of EPA Act 2005 Standards: This is a discussion of considerations that State Commissions were required to make under the Energy Policy Act. It basically has been determined that currently there is no need to do anything with respect to those standards.

Bob noted that MCC is involved in some ongoing collaboratives, for example, The Technical Advisory Committee for NWE on Resource Planning and also now in Distribution and Transmission Costs Planning.

MARY WRIGHT PROVIDED THE FOLLOWING HIGHLIGHTS OF TELECOM CASES CURRENTLY PENDING:

Eligible Telecommunications Carrier Cases

ETC is a program that arose from the 1996 Federal Telecommunication Act. One of the characteristics of ETC was to try and change from implicit subsidies in the telecommunications business to explicit subsidies. So, Federal Universal Service funds are paid to phone companies that are in high cost rural areas, such as Montana. In 1997, shortly after the 1996 Federal Telecommunication Act was passed, the PSC held proceedings in which all telephone companies in Montana were declared ETC's, therefore eligible for Federal Universal Service funds. This created a focus on competitive ETC's or CETC's, which pertains to applying for the same federal funding that the incumbent carriers in Montana receive.

D2004.1.6 - Triangle Communications Systems, Inc: This case is from 2004 and has been suspended several times. A hearing was held last summer and all briefs have been filed. The PSC has voted to grant this application but no final order has been issued. The PSC usually favors granting ETC designations because they view the process as receiving free money that will benefit development of the communications system in Montana.

D2007.4.37-Swiftel, LLC: Swiftel, LLC is a Florida based company applying in the Southeast and Northwest. Swiftel's business model is to only serve low income customers and MCC will be learning more about them as the case proceeds.

D2007.2.18-MTPCS, LLC d/b/a/Chinook Wireless: Chinook Wireless bought wireless facilities affiliated companies' from Blackfoot Telephone Cooperative and 3 Rivers Telephone Cooperative. A hearing is scheduled for October.

Qwest

N2006.6.81-Qwest Tariff Transmittal 06-10 Residence and Business Customer Incentive Programs: Qwest has a tariff that gives it the ability to offer incentives to customers to come back to Qwest if they have changed to a competitor. In the past, MCC has supported similar applications, but this one has a few differences. A hearing is scheduled for July.

D2006.3.39-Qwest Corporation's Notification to Offer Certain CLASS Features, AIN Features, Custom Calling Features, Listings and Packages as Not Regulated: This case is referred to the Qwest Deregulation Docket. Qwest filed an application claiming that many of their services did not fit the definition of regulated telecommunications service. MCC opposed this application and a hearing was held in November.

Intercarrier Compensation

Intercarrier Compensation (ICC) involves how telephone companies compensate each other for the use of their network. This issue puts providers against each other, interexchange carriers against local carriers, rural carriers against urban carriers and there usually is a lot of money involved so these cases can be rather controversial and complex. There has been no big development recently on this issue and it will more than likely take a long time to come up with a plan acceptable to everyone or at least that can be imposed on everyone.

Court Cases

Cause No. CDV 2003-464 - Qwest v. PSC and MCC: This case came out of the PSC asking Qwest for financial information. Qwest objected and the case went to District Court. The District Court conclusion was that the PSC has the authority to get the information but a different approach needed to be used. This case has been before the Supreme Court since 2004.

Arbitration

D2005.12.174 - Level 3 Communications: Under the 1996 Federal Telecommunication Act, if companies try and negotiate an interconnection agreement between themselves and all issues can not be resolved, the companies can come before the PSC for arbitration of these issues. By law, MCC is the only entity that can intervene. In May Level 3 Communications, the competitive local exchange carrier that originally made this filing, filed a request to withdraw the petition but said they want to opt in to Qwest's Statement of Generally Available Terms (SGAT), which is a document required by the 1996 Federal Telecommunications Act. Qwest did not oppose the withdrawal but did not want Level 3 to use their SGAT because it has not been updated since 2002 and no longer complies with current federal law. Qwest has a set of offerings they give to competitive companies, which Level 3 rejected. This case is still pending.

Complaint

D2006.10.143-Doty et al. v. Qwest Corporation: Then Senator and now

Commissioner Ken Toole and 31 other Qwest customers filed a complaint before the PSC arguing that Qwest is earning in excess of their authorized rate of return. MCC intervened in this case and the PSC issued an order specifying that the complainants had the burden of proof which can not be shifted to Qwest. A hearing is scheduled for October.

D2005.6.105-PSC Investigation of Qwest use of USF: In 2005, the PSC began investigating Qwest's use of Universal Service Funds they receive from the Federal Government. The PSC concluded they had the authority to tell Qwest how to use the funds, which created a new phase of the proceeding in which the PSC hired its own expert witness to file testimony and eventually presented three options for parties to pursue in the case. One was reduce local rates, the second was eliminate extended area service charges and the third was reduce access charges paid by long distance carriers. This item is significant because in 1996 Qwest was getting about \$36,000 per year in USF and in 2006 that figure was about \$17 million. Qwest's rates were last set in the 1990's. That revenue collected, compared to what Qwest put into construction and investment on the Montana system, which had been cut in half during this time, raised concerns.

LARRY NORDELL GAVE AN UPDATE ON THE TRANSMISSION PLANNING PROCESS

In the mid-1990's, there became a wide recognition among utilities and the states that the management of transmission systems was leading to unfortunate results and inefficient use of the transmission grid. Since then, the transmission system has evolved as vertically integrated utilities build generation to serve their own customers and build the transmission and distribution networks to carry the power from their generation to their customers. Back in the 1960's, the utilities had recognized the value of interconnecting their systems and began building a pretty strong interconnection. In order to manage the interconnection, they built the use of their systems accordingly, for example, getting permission to use contract paths from the

utilities that owned them. This worked for a long time but was not very efficient. So beginning in the mid 1990's, extensive discussions began, mainly in the Northwest relating to putting the grid under a unified management. The states and utilities made several efforts to move forward with this process, but failed for different reasons. The first effort foundered because when attempting to design a rate structure, some utilities would end up paying more due to a shift in costs. The second effort, named RTO West, lasted three years and failed largely because of conflicts between BPA and their public utility customers on one hand and the investor owned utilities and many non-BPA publics on the other. The issue here was the concept of ceding control of the grid to an independent decision maker. The third effort was a scaled back version of RTO West called Grid West. The Grid West effort was a lot more evolutionary in trying to take small steps and proceed only under certain rigid conditions to forming a regional transmission organization with independent control, which ultimately foundered for the same reason as RTO West. At this point, all parties basically agreed to go separate ways. BPA and its customers formed an organization call Columbia Grid, which has very limited functions and very strict restrictions on any changes in governance. The investor owned utilities and other partners who had a greater willingness to go along with a reformed Grid management formed a group called Northern Tier Transmission Group (NTTG). NTTG also decided to start off with modest functions and without any independence, but it is designed as a more evolutionary organization. The NTTG has three programs. ACE Diversity Sharing is where everyone feeds their control area into a common computer, the computer then adds them up and figures out what the net control areas errors are, and reports that back to the utilities. This system makes the integration of wind easier and it offers the opportunity to save money. Senator Murphy asked Larry to elaborate on this system making the integration of wind power easier. Larry said the main problem with wind is its unpredictably and variability so a wind generator has a very difficult time telling the utility what it is going to be producing, but the control area needs to know that information so they can figure out what they are going to be shipping to the adjacent control areas so the variability of wind contributes to the control area error, which is going to be netted

out with the ACE Diversity Sharing system. It is not known yet how much the saving will be, but it is expected to be quite helpful. The second program is a shared process for transparent calculation of Available Transmission Capacity. Utilities have to post their available capacity on their interconnections on their websites but it is unsure how they are calculated and there is question of whether they are being manipulated to restrict access to other utilities. The NTTG parties have agreed to try to make this process more transparent. The third program is Shared Regional Planning. There has been a debate in Congress that the United States has been in a transmission investment drought for the last 20 years. One reason for this thought is state myopia in utility siting regulation. The second reason is the uncertainty on the part of utilities getting costs recovered from building transmission and the third is independent power producers arguing that they can not be expected to pay the cost of the transmission needed because they are so small. The Energy Act of 2006 attempted to address these arguments and provided for a federal override of transmission siting under certain circumstances by the Department of Energy and by FERC, giving FERC the ability to sponsor eminent domain for interstate transmission lines. On the cost recovery issue every utility and every regional transmission organization was ordered to participate in regional planning. So everyone involved had to have a straw man process posted on their websites by June. Most criteria needing to be met involved showing an open process that different stake holders will be able to participate in. The NTTG discussions have been contentious on this issue and the straw man language will basically say that projections of transmission lines benefits are uncertain and risky and careful comparisons of the benefits and the amount of risks they are bearing need to be considered. It is hard to say what FERC will accept in terms of meeting their intent. By comparison, the Southwest Transmission Planning Group, called West Connect, has basically said they will not do any cost allocation for economic transmission lines but they will for reliability lines. This alternative was not acceptable to NTTG parties.

FINANCIAL REPORT

The financial report provided was for 5/07. The report is not necessarily representative of where the finances stand because some information runs a few months behind. The budget is approved by the legislature and the Department of Revenue sets a tax rate to collect the budgeted amount based on the tax revenue base, or revenues the utilities report on their regulated activities, which is adjusted each year. The current rate is 0.0008%. Any amount unspent is a deduction from the appropriation amount used in setting the next tax rate. With one month left of the fiscal year, it appears there will be a remaining balance of between 10-15 percent in the personal services category, the reason being there are two unfilled positions. Contracted Services is the largest item in the budget. Along with a base amount there is also a provision for a contingency amount of \$250,000 for unforeseen workload. It appears this fiscal year that somewhere between \$50,000 and \$100,000 of the contingency will be used primarily due to the FERC cases and the NWE/BBI merger case. The other categories should remain roughly at the budgeted level. Representative McNutt clarified that this budget goes through 6/30/07 and the new budget begins 7/1/07. Senator Murphy asked about motor pool charges, stating he felt the cost was quite small. Bob said that amount fluctuates from year to year, depending on what types of cases are going on and how many hearings and meetings outside of Helena need attending. More recently, the PSC has been having satellite hearings, especially with the BBI merger.

HIRING OF EXPERT WITNESSES

MOTION: Representative McNutt moved approval to hire the services of the following expert witnesses:

D2006.6.81-AI Buckalew

D2006.8.121-AI Buckalew

D2006.10.143-AI Buckalew

D2007.2.18-AI Buckalew

N2006.12.184-George Donkin

D2007.5.44-George Donkin
D2007.4.36-George Donkin
D2006.12.176-Al Clark
D2006.10.141-John Wilson, John Coyle, Al Clark
D2007.7.82- John Wilson, John Coyle, Al Clark
D2007.4.35-John Wilson
ER07-827-John Coyle
ER07-46-000-John Wilson and John Coyle

VOTE: The motion passed unanimously.

COUNSEL PERSONNEL

Larry Nordell retired on 12/06 and has agreed to work part time. He has been rehired and Bob requested committee approval of Larry Nordell working on a part time basis. His former total compensation on an hourly basis was applied with the leave hours he is not accruing as a part time employee deducted.

MOTION: Representative McNutt moved hire Larry Nordell to work part time.

VOTE: The motion passed unanimously.

Senator Tropila thanked Bob and his staff for a good presentation. He and Senator Murphy agreed it best to give the offices to Representative Groesbeck and Representative McNutt since they have been members in the past and that basically was the reason for the substitute motion.

Public Comments

Based on HB94 requirements, a public comment period was offered, but none was given.

Adjournment

There being no further business to come before the committee, the meeting adjourned.

Respectfully submitted,

Robert Nelson, Robert Nelson, Consumer Counsel

Accepted by the Committee this 23 day of August, 2007

George S. Sander, Chairman.